

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN-CHRISTOPHE LIEBESKIND, et al.,

No. C-07-3962 MMC

Plaintiffs,

v.

ALLIANCE TITLE CO.,

Defendant

**ORDER DENYING PLAINTIFF'S MOTION
TO DISMISS FIRST AMENDED CROSS-
COMPLAINT AND FOR LEAVE TO FILE
AMENDED COMPLAINT; VACATING
HEARING**

ALLIANCE TITLE CO.,

Cross-complainant,

v.

JEAN-CHRISTOPHE LIEBESKIND, et al.,

Cross-defendants

Before the Court is plaintiffs/cross-defendants Jean-Christophe Liebeskind, Clothilde De Muralt, and Alenxandre Liebeskind's "Motion to Dismiss Cross-Complaint and for Leave to File Amended Complaint," filed October 15, 2007. Cross-complainant/ defendant Alliance Title Co. ("Alliance") has filed opposition, to which plaintiffs have replied.¹ Having read and considered the papers submitted in support and in opposition to the motion, the

¹Two other cross-defendants, specifically, the United States Department of Treasury - Internal Revenue Service and the California State Franchise Tax Board, have not filed a joinder or any other response to the motion. The remaining cross-defendant, Rene Frelow, has not appeared herein.

1 Court deems the matter suitable for decision thereon, VACATES the hearing scheduled for
2 November 30, 2007, and rules as follows:

3 1. Contrary to plaintiffs' argument, the First Amended Cross-Complaint ("FACC") is
4 not subject to dismissal. Plaintiffs cite no authority providing that a complaint in
5 interpleader, proceeding under Rule 22 of the Federal Rules of Civil Procedure, must be
6 verified, and are incorrect that the FACC fails to allege the existence of a dispute among
7 the claimants as to the interpleaded funds. (See, e.g., FACC ¶¶ 6-8, 12.) To the extent
8 plaintiffs contend a dispute as to the interpleaded funds no longer exists, thus rendering the
9 complaint in interpleader moot, such argument likewise fails, as plaintiffs have provided no
10 evidence that all claims to said funds, including that of Alliance for attorney's fees, have
11 been resolved by the parties.


12 2. Plaintiffs have not submitted a proposed amended complaint, as required by the
13 Local Rules of this District, see Civil L.R. 10-1, nor have plaintiffs otherwise identified the
14 nature of any proposed amendment to their complaint. Consequently, the Court cannot
15 determine whether leave to amend is proper, and, accordingly, will deny without prejudice
16 plaintiffs' request for leave to amend their complaint.

17 **CONCLUSION**

18 For the reasons stated, plaintiffs' motion to dismiss the FACC and for leave to
19 amend is hereby DENIED.

20 **IT IS SO ORDERED.**

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22 Dated: November 29, 2007

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24 MAXINE M. CHESNEY
25 United States District Judge
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